

Regular Session, 2013

HOUSE BILL NO. 565

BY REPRESENTATIVE PATRICK WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE DEPARTMENT: Authorizes the Department of Revenue to establish and use an electronic financial institution data match system for purposes of tax collection administration and enforcement

1 AN ACT

2 To enact R.S. 47:1543.1, relative to the collection of taxes by the Department of Revenue;
3 to authorize the secretary of the department to implement and use an electronic data
4 matching system for use in tax administration and enforcement; to authorize
5 contracts with certain financial institutions and other entities; to authorize the
6 acquisition and use of certain personal account information received from a financial
7 institution under certain circumstances; to provide requirements for confidentiality
8 of certain information; to provide for rulemaking; to provide for an effective date;
9 and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:1543.1 is hereby enacted to read as follows:

12 §1543.1. Electronic financial institution data match system

13 A. The secretary may establish and use an electronic financial institution
14 data match system for comparison of certain account information held by financial
15 institutions with the secretary's database of tax debtors against whom an assessment
16 or judgment for the tax has become final.

17 B. As used herein, the following words, terms, and phrases have the meaning
18 ascribed to them, except where the context indicates otherwise:

1 (1) "Account" means a demand deposit account, checking or negotiable
2 order of withdrawal account, savings account, time deposit account, brokerage
3 account, mutual fund account, money market mutual fund account, or a life
4 insurance policy with a cash surrender value. "Account" also includes an equity
5 securities account if permitted under federal law. "Account" does not include an
6 account to which a tax debtor does not have access due to the pledge of funds as
7 security for a loan or other obligation, an account to which a financial institution has
8 a present right to exercise a right of setoff, an account to which the tax debtor does
9 not have an unconditional right of access, or an account that has an account holder
10 of interest named as an owner on the account.

11 (2) "Account holder of interest" means any person, other than the tax debtor,
12 who asserts an ownership interest in an account.

13 (3) "Account information" means the name, record address, social security
14 number or other taxpayer identification number, other identifying data, account type,
15 account number, and an average daily account balance for the most recent thirty-day
16 period for each calendar quarter for each account held by the tax debtor. Except as
17 provided in Paragraph (1) of this Subsection, if an account is jointly owned, the name
18 and address of any account holder of interest shall be considered account
19 information.

20 (4) "Financial institution" or "institution" means a state or federally chartered
21 bank, savings bank, savings and loan or credit union, a benefit association, insurance
22 company, safe deposit company, money market mutual fund, and any other similar
23 entity which is authorized to do business in the state. "Financial institution" shall
24 also include an investment and loan corporation if permitted under federal law any
25 broker, brokerage firm, trust company, and unit investment trust authorized to do
26 business in this state.

27 (5) "Electronic financial institution data match system" means a system
28 established for the computerized comparison of government data to government or

1 nongovernment data for use by the secretary for purposes of administering and
2 enforcing the collection of taxes from a tax debtor.

3 (6) "Person" means any individual, partnership, limited partnership,
4 unincorporated association, joint stock company, corporation, limited liability
5 company, limited liability partnership, state, city, parish, municipality, or other
6 governmental subdivision.

7 (7) "Secretary" means the secretary of the Department of Revenue.

8 (8) "Tax debtor" means a person liable for a tax, including interest, penalties,
9 and related fees, that has been reduced to a final assessment or a judgment and is
10 collectable by the secretary.

11 C.(1) The secretary is authorized to contract with financial institutions for
12 purposes of the electronic financial institution data match system whereby the
13 secretary may request assistance and information from those institutions for the
14 purpose of enforcing the collection of assessments or judgments that have become
15 final. The contract shall contain such provisions as the secretary and the financial
16 institution deem appropriate, as well as those provisions contained in Paragraph (2)
17 of this Subsection.

18 (2) No more than once every calendar quarter, or as otherwise may be agreed
19 to by the financial institution, the secretary may provide to the institution a list of tax
20 debtors. The financial institution shall determine whether the name of any tax debtor
21 contained on the secretary's list matches the name of any person maintaining an
22 account at the institution. If a match is found, the tax debtor's account information
23 shall be provided by the financial institution to the secretary. This shall be
24 accomplished through the provision of a file or report containing account
25 information on all such tax debtors maintaining an account at the institution, with
26 each account holder's information listed separately. The secretary and the financial
27 institution shall determine the mechanism and method by which this file or report
28 shall be transmitted. An intermediary may be retained for any purpose related to

1 administration of the provisions of this Section, and shall be bound by the
2 confidentiality provisions contained in both this Section and R.S. 47:1508.

3 D. Upon receipt of this file or report, the secretary shall match the account
4 information received through the electronic financial institution data match system
5 against the Department of Revenue's files of taxpayers whose tax liabilities are
6 delinquent or against the files of any other persons for whom the information is
7 authorized.

8 E.(1) A financial institution shall not divulge or disclose any information
9 contained in any request for information or other communication by the secretary,
10 with the exception of authorized employees of the institution engaged in the
11 operation of the electronic financial institution data match system and authorized
12 employees of the Department of Revenue. Any information furnished by the
13 financial institution shall be considered and held privileged by the secretary and the
14 institution to the same extent as provided in R.S. 47:1508.

15 (2) Unless otherwise required by law, a financial institution furnishing a file
16 or report or providing other information to the secretary shall be prohibited from
17 disclosing to a depositor or an account holder that their name has been received from
18 or disclosed to the secretary.

19 (3) A financial institution may disclose to its depositors or account holders
20 that according to the provisions of the electronic financial institution data match
21 system, the secretary may request certain identifying information regarding
22 depositors or account holders.

23 F. A financial institution that submits a report or file to the secretary in
24 accordance with this Section shall not be liable under R.S. 6:333(C) to any person
25 for any disclosure of information to the secretary, nor for any other action taken in
26 good faith to comply with the requirements of this Section.

27 G. The procedures established herein shall be in addition to any of the
28 special remedies provided in this Subtitle, the alternative remedies provided in R.S.

1 47:1561, and any other legal remedy available to the secretary for the collection of
2 tax indebtedness.

3 H. The secretary may promulgate rules and regulations in accordance with
4 the Administrative Procedure Act necessary for the administration of this Section.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Patrick Williams

HB No. 565

Abstract: Authorizes the Dept. of Revenue to establish and use an electronic financial institution data match system for purposes of enforcement of tax collection from tax debtors.

Proposed law authorizes the secretary of the Dept. of Revenue to establish and use an electronic financial institution data match system (hereinafter "system") for comparison of personal account information held by financial institutions with the secretary's database of tax debtors against whom an assessment or judgment for the tax has become final.

Proposed law defines terms, including: account, account holder of interest, account information, financial institution, electronic financial institution data match system, and tax debtor.

Proposed law authorizes the secretary to contract with financial institutions for the purpose of enforcing the collection of assessments and judgments that have become final. The contract shall contain such provisions as the secretary and the financial institution deem necessary. The contract shall also provide with respect to the transmission of information from the secretary to the financial institution regarding the names of tax debtors, and the transmission of information from the financial institution to the secretary regarding the names of any account holders who match the names of the tax debtors as identified by the secretary. Further, an intermediary may be retained for any purpose related to proposed law.

Proposed law authorizes the provision of the following data elements for account holders matching the list of tax debtors provided by the secretary: name, record address, social security number, taxpayer identification number, other identifying data, account type, account number, and an average daily account balance for the most recent 30-day period for each calendar quarter for each account held by a tax debtor.

Proposed law authorizes the secretary to use the information received from a financial institution to match against the Dept. of Revenue files of taxpayers whose tax liabilities are delinquent or against the files of any other persons for whom the information is authorized.

Proposed law provides for confidentiality of account information and limits liability of the financial institution with regard to the provision of data to the secretary.

Proposed law provides that the procedures established in proposed law are additional to any other legal remedy available to the secretary for the collection of tax indebtedness.

Proposed law authorizes the promulgation of rules and regulations to implement the provisions of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:1543.1)